IN THE SUPREME COURT OF THE STATE OF DELAWARE

IN THE MATTER OF THE

§§ No. 379, 2013 PETITION OF DAVID DICKERSON

FOR A WRIT OF MANDAMUS

Submitted: August 2, 2013 August 23, 2013 Decided:

Before BERGER, JACOBS, and RIDGELY, Justices.

<u>ORDER</u>

This 23rd day of August 2013, it appears to the Court that:

- David Dickerson has filed a petition with this Court requesting the **(1)** issuance of a writ of mandamus directing the Superior Court to correct his allegedly illegal sentence for a violation of probation (VOP). The State of Delaware has filed a response and motion to dismiss this action on the ground that Dickerson's petition manifestly fails to invoke the original jurisdiction of the Court. We agree.
- (2) This Court may issue a writ of mandamus to compel a lower court to perform a duty. As a condition precedent to the performance of that duty, the complainant must demonstrate a clear right to the performance of the duty, that no other remedy is available, and that the trial court has arbitrarily failed or refused to perform its duty.¹

¹ In re Hyson, 649 A.2d 807, 808 (Del. 1994).

(3) Dickerson's petition in this case manifestly fails to invoke the original jurisdiction of the Court. Dickerson previously appealed from the Superior Court's denial of his motion for correction of his VOP sentence. We rejected Dickerson's claims on appeal and affirmed the Superior Court's judgment.² Under the circumstances, Dickerson clearly cannot establish that he is entitled to the relief he seeks.

NOW, THEREFORE, IT IS ORDERED that Dickerson's petition for a writ of mandamus is DISMISSED.

BY THE COURT:

/s/ Jack B. Jacobs
Justice

² Dickerson v. State, 2013 WL 1559650 (Del. Apr. 11, 2013).